IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
Original Jurisdiction

Dated: Nainital: the 25th **day of** June ,2002

Criminal Misc. Bail Application No. 326 of 2002

Order on the Bail Application of the accused – Babu Singh Bhadorai, r/o village Harrwala, P.S. Doiwala, Dehradun.

CRIMINAL SIDE

Babu Singh Bhadorai, r/o village Harrawala, P.S. Doiwala, Dehradun.

……Accused

Versus

State of Uttaranchal. ……Opposite Party.

Arising out of Case Crime No 7 of 2001
Under Sections 420/467/468/120 B IPC
Police Station- Sahaspur district Dehradun

By the Court

Hon'ble Irshad Hussain, J.

Heard learned counsel for the applicant and the learned A.G.A.

This is the second bail applicant and the first bail application wad dismissed for want of prosecution on 12.4.2002. According to the prosecution version the accused applicant as a director of an Institute assured the incumbents that they will be given admission in Bachelor course of dental surgery, physiotherapy and bachelor course of medical lab technology and on that assurance collected so called capitation fee to the tune of one to two lacs fifty thousands each and also collected money from others assuring them employment in the institute. Later on despite the admission of the incumbents in the institute it was found that the institute was neither affiliated to any University for the purpose of recognition of any of these curses nor the institute was duly recognized under the rules prevalent to award any certificate or degree in the course alleged to have been undertaken by the institute. In view thereof the informant alleged that they have been cheated because from the very beginning, the intention of the accused was to usurp the money by giving false assurance.

On behalf of the accused applicant attention has been drawn to the documents filed in support of the bail application, first of which is the annexure no. 4 pertaining to temporary afflation of the institute with Bhim Rao Ambedkar University Agra. Annexure no.5 is the cash memo of purchase of scientific tools and books for the institute. Annexure no. 6 is the order of Allahabad High Court in a writ petition filed by the accused applicant seeking direction for the Chancellor and Vice-chancellor of Agra University to accord affiliation to the institute and the writ petition was disposed of with the direction that the representation of the accused applicant be decided in accordance with law. Annexure no.7 is the order-dated 24.2.2002 by which the applicant was communicated the order of rejection of affiliation of the institute with Bhim Rao Ambedkar University Agra. Annexure no. 8 is the memorandum submitted by the accused to the Governor of Uttaranchal

to interfere in the matter of grant of No Objection Certificate for the affiliation of the institute to a recognize d University. Annexure no. 2 is the NOC dated 25.10.99, which had been issued to the institute in relation to three courses mentioned in it. Pointing out to these documents and also other papers possessed by the learned counsel for the applicant and shown at the Bar in regard to the purchase of books and scientific items for the institute, it was submitted that the accused applicant has sincerely taken steps and established the institute to impart the training in the courses and that there had not been an intention to cheat the incumbents or the students by giving false assurances to them and that there has been delay in getting the recognition and affiliation with the University due to the reasons beyond the control of the accused applicant. It was conceded at the bar by the learned A.G.A. that no receipt of the payment of the huge sums had been collected by the Investigating officer from any students. Considering this aspect, prima facie it is established that sincere efforts were taken towards the recognition and affiliation of the institute, purchase of the various items of scientific use in the courses as well as the books, hence, I am of the view that the accused applicant may be released on bail in this case. Considering the facts of the case it shall be just and proper to demand an adequate surety bonds from the accused applicant in the event of his release on bail.

Let the accused applicant Babu Singh Bhadoria,r/o village Harrwala, P.S. Doiwala, Dehradun be release on bail in Case Crime No 7 of 2001 under Sections 420/467/468/120 B IPC Police Station- Sahaspur district Dehradun on his executing a personal bond of Rs. Three lacs and furnishing two sureties each in the like amount to the satisfaction of C.J.M. Dehradun.

25.6.2002. **(Irshad Hussain, J.)**
M.P.S.